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9
10 **BEFORE THE**
RESPIRATORY CARE BOARD
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Statement of Issues Against:

Case No. S-383

13 CAYCEE DIANE DIXON
308 Irene Street
14 Taft, California 93268

STATEMENT OF ISSUES

15 Respondent.
16

17 Complainant alleges:

18 PARTIES

19 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Respiratory Care Board of California
21 (Board), Department of Consumer Affairs.

22 2. On or about November 13, 2006, the Board received an application for a
23 Respiratory Care Practitioner License from Caycee Diane Dixon (Respondent). On or about
24 November 1, 2006, Respondent certified under penalty of perjury to the truthfulness of all
25 statements, answers, and representations in the application. The Board denied the application on
26 January 29, 2007.

27 JURISDICTION

28 3. This Statement of Issues is brought before the Board under the authority of

1 the following laws. All section references are to the Business and Professions Code (Code),
2 unless otherwise indicated.

3 4. Section 3710 of the Code states: "The Respiratory Care Board of
4 California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter
5 8.3, the Respiratory Care Practice Act]."

6 5. Section 3718 of the Code states: "The board shall issue, deny, suspend,
7 and revoke licenses to practice respiratory care as provided in this chapter."

8 6. Section 3732, subdivision (b) of the Code states:

9 "The board may deny an application, or may order the issuance of a license
10 with terms and conditions, for any of the causes specified in this chapter for
11 suspension or revocation of a license, including, but not limited to, those causes
12 specified in Sections 3750, 3750.5, 3752.5, 3752.6, 3755, 3757, 3760, and 3761."

13 7. Section 3750 of the Code states:

14 "The board may order the denial, suspension or revocation of, or the
15 imposition of probationary conditions upon, a license issued under this chapter, for
16 any of the following causes:

17 "...

18 "(d) Conviction of a crime that substantially relates to the qualifications,
19 functions, or duties of a respiratory care practitioner. The record of conviction or a
20 certified copy thereof shall be conclusive evidence of the conviction.

21 "..."

22 8. Section 3750.5 of the Code states:

23 "In addition to any other grounds specified in this chapter, the board may
24 deny, suspend, or revoke the license of any applicant or license holder who has
25 done any of the following:

26 "...

27 "(b) Used any controlled substance as defined in Division 10 (commencing
28 with Section 11000) of the Health and Safety Code.

1 “...”

2 9. Section 3752 of the Code states:

3 “A plea or verdict of guilty or a conviction following a plea of nolo
4 contendere made to a charge of any offense which substantially relates to the
5 qualifications, functions, or duties of a respiratory care practitioner is deemed to be
6 a conviction within the meaning of this article. The board shall order the license
7 suspended or revoked, or may decline to issue a license, when the time for appeal
8 has elapsed, or the judgment of conviction has been affirmed on appeal or when an
9 order granting probation is made suspending the imposition of sentence,
10 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing
11 the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
12 setting aside the verdict of guilty, or dismissing the accusation, information, or
13 indictment.”

14 10. Section 492 of the Code states:

15 “Notwithstanding any other provision of law, successful completion of any
16 diversion program under the Penal Code, or successful completion of an alcohol
17 and drug problem assessment program under Article 5 (commencing with section
18 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
19 agency established under Division 2 ([Healing Arts] commencing with Section
20 500) of this code, or any initiative act referred to in that division, from taking
21 disciplinary action against a licensee or from denying a license for professional
22 misconduct, notwithstanding that evidence of that misconduct may be recorded in a
23 record pertaining to an arrest.”

24 COST RECOVERY

25 11. Section 3753.5, subdivision (a) of the Code states:

26 “In any order issued in resolution of a disciplinary proceeding before the
27 board, the board or the administrative law judge may direct any practitioner or
28 applicant found to have committed a violation or violations of law to pay to the

1 board a sum not to exceed the costs of the investigation and prosecution of the
2 case."

3 12. Section 3753.7 of the Code states:

4 "For purposes of the Respiratory Care Practice Act, costs of prosecution
5 shall include attorney general or other prosecuting attorney fees, expert witness
6 fees, and other administrative, filing, and service fees."

7 13. Section 3753.1, subdivision (a) of the Code states:

8 "An administrative disciplinary decision imposing terms of probation may
9 include, among other things, a requirement that the licensee-probationer pay the
10 monetary costs associated with monitoring the probation."

11 CONTROLLED SUBSTANCE

12 14. Methamphetamine is a Schedule II controlled substance pursuant to
13 Health and Safety Code section 11055.

14 FIRST CAUSE FOR DENIAL OF APPLICATION

15 (Use of a Controlled Substance)

16 15. Respondent's application is subject to denial under Code sections
17 3750.5, subdivision (b), in conjunction with section 3732, subdivision (b), in that she used
18 the controlled substance methamphetamine. The circumstances are as follows:

19 A. On or about November 17, 2003, Taft police officers responded to a
20 report of a possible injury at a residence. One of the police officers encountered
21 Respondent who was lying on the floor and appeared to be sleeping. When the
22 officer attempted to wake her up, he noticed that her pupils were dilated.
23 Respondent stated she had taken three or four Xanax (benzodiazapine) pills and
24 some methamphetamine. She could not maintain her balance upon standing and
25 appeared to be dazed. Respondent was arrested and taken into custody. After
26 questioning, she admitted that she smoked three bowls of methamphetamine at
27 about 7:00 a.m. that morning and then took three or four Xanax pills at about 6:00
28 p.m. Respondent was issued a Notice to Appear.

1 B. On or about December 2, 2003, in Kern County Superior Court
2 Case No. TM059418A, Respondent was charged with use of a controlled
3 substance, in violation of Health and Safety Code section 11550, subdivision (a),
4 misdemeanor.

5 C. On or about December 3, 2003, Respondent pled guilty to use of a
6 controlled substance. On or about December 30, 2003, Respondent was granted
7 diversion by the court for one year pursuant to Penal Code section 1000. She was
8 ordered to pay a restitution fine of \$100.00.

9 SECOND CAUSE FOR DENIAL OF APPLICATION

10 (Conviction of a Crime)

11 16. Respondent's application is subject to denial under Business and
12 Professions Code sections 3750, subdivision (d), and 3752, in conjunction with section
13 3732, subdivision (b), in that Respondent was convicted of a crime substantially related to
14 the qualifications, functions and duties of a respiratory care practitioner. The
15 circumstances are as follows:

16 A. In December 1994, in San Luis Obispo County Municipal Court
17 Case No. M000222064, Respondent was charged with possession of an alcoholic
18 beverage by a minor in a public place, in violation of Business and Professions
19 Code section 25662, subdivision (a), a misdemeanor (Count 1), following the
20 issuance of a Notice to Appear by the Pismo Beach Police Department on or about
21 November 4, 1994.

22 B. On or about December 19, 1994, the court ordered the complaint
23 amended to add Count 2, possession of alcohol by a person under 21 years of age,
24 in violation of Pismo Beach Municipal Code section 9.04.020. On or about
25 December 19, 1994, Respondent was convicted upon her plea of nolo contendere
26 to Count 2. She was placed on probation for one year and ordered to pay a fine of
27 \$350.00. Count 1 of the complaint was dismissed.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Respiratory Care Board issue a decision:

- 1. Denying the application of Caycee Diane Dixon for a Respiratory Care Practitioner License;
- 2. Directing Caycee Diane Dixon to pay the Respiratory Care Board the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and,
- 3. Taking such other and further action as deemed necessary and proper.

DATED: June 7, 2007

Original signed by Christine Molina for:
STEPHANIE NUNEZ
Executive Officer
Respiratory Care Board of California
Department of Consumer Affairs
State of California
Complainant